Patent Basics for the Aerospace Industry
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Presented for Space Foundation Space Commerce Workshop at Aerospace Corp. (El Segundo, CA)
My Background in Aerospace Engineering

• Former aerospace engineer
  – Northrop Grumman
  – NASA Armstrong
  – Univ. of Florida

95%+ of attorneys hold technical degrees

Global Practice

through large network of Foreign Associates

7 Offices Nationwide
Orange County
Los Angeles
New York
San Diego
San Francisco
Seattle
Washington D.C.

200 Highest number of registered patent attorneys in the US practicing across a vast array of industries

250+ lawyers & scientists

All our attorneys are focused only on IP law as opposed to general practice firms that have smaller IP departments
The major manufacturers in aerospace and defense have about 30K patents and 30K applications (according to patsnap.com).

Key markets are U.S. and Europe.
Top Aerospace Companies in Patents

“top companies in this industry based on their patent output” – patsnap.com
SAMPLE TECHNOLOGIES

- Satellites
- Aircraft
- Lighter Than Air Systems
- Propulsion

SAMPLE FORMER CLIENT

- Skybox Imaging
  - Acquired by Google for $500M
  - Now Terra Bella, part of Planet (formerly Planet Labs)
Why get a Patent?

- Market Exclusivity
- Company Value
- Revenue
- Legal Protection
- Attracts Investors
Patent Strategy – 3 Big Issues

• Do you own it?
  – In U.S., inventors are default owners
  – Assign to the company

• Can you protect it?
  – Eligibility AND patentability
  – Strength of portfolio

• Do you have freedom to practice it?
  – Risk of infringing others’ patents
Prior Art Searching

• Searching may help with patentability and avoiding infringement
• Types of Searches
  – DIY
  – Professional searching
Types of Patents

- Utility – systems, methods, software, etc.
- Design – ornamental aspects
What Rights Does a U.S. Patent Grant?

- Right to *exclude* others from practicing the invention (20 years)
- Does NOT provide the right to practice invention
Basic Legal Requirements for U.S. Utility Patents

• Eligibility
  – Not eligible: abstract ideas, laws of nature, natural phenomena
  – Recent scrutiny of eligibility: Biotech, Software & Business Methods

• Patentability
  – (1) useful,
  – (2) novel, and
  – (3) non-obvious
12 months between provisional(s) and non-provisional(s)
U.S. Non-Provisional Application

• Can claim priority to:
  – One or more provisional applications
  – Other pending non-provisional application(s)
• Examined: ~18-24 months
  – Priority Exam: ~6-12 months for $$$
U.S. Continuation Applications

- Original Non-Provisional Application
  ("Parent")
- Issued Patent #1
  "claim scope"
- Continuation Application #1
- Issued Patent #2
  Larger/different "claim scope"
- Continuation Application #2
- Issued Patent #3
Foreign Protection via “PCT”

• Patent Cooperation Treaty (PCT) Application
  – 152 member countries
  – File within 12 months from priority application
  – Enter “National Phase” within 30 months of priority
Timeline for Filing

• Typical Filing Strategy

12 Months

1st Provisional

2nd Provisional (optional)

3rd Provisional (optional)

18 Months

Utility / PCT

National Phase (U.S., Europe, Japan, Korea, China, etc.)
Patent Enforcement - Offense

• Cease and Desist Letters
• Patent Infringement Suits
  – Monetary Damages
  – Injunctions
• U.S. International Trade Commission Investigation
• Strict liability
• Consider “right to practice” search/analysis
  – 3X damages for “willful infringement”
• Inter Partes Review (IPR)
Disclaimers

- This presentation constitutes an educational and informational presentation of general IP law and should not be construed as individualized legal advice or representation.

- The presentation of these materials does not establish an attorney-client relationship. Representation can be initiated only upon completion of our standard new client/new matter process, including completion of a conflicts check, execution of an engagement agreement and payment of any applicable retainer.